

ATTACHMENT 78

Restore Robotics LLC v Intuitive Surgical

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION

RESTORE ROBOTICS LLC,)
RESTORE ROBOTICS REPAIRS)
LLC, and CLIF PARKER)
ROBOTICS LLC,)

Plaintiffs,)

vs.)

INTUITIVE SURGICAL, INC.,)
Defendant.)

CIVIL ACTION NO.

5:19-CV-55-TKW-MJF

INTUITIVE SURGICAL, INC.,)
Counterclaimant,)

vs.)

RESTORE ROBOTICS LLC,)
RESTORE ROBOTICS REPAIRS)
LLC,)

Counterclaim Defendants.)

VIDEOTAPED DEPOSITION OF GREG POSDAL
(Taken by Defendant)

May 10, 2021

10:00 a.m.

Reported by: Debra M. Druzisky, CCR-B-1848

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1 this line of questioning based upon the
2 original improper questioning. Objection
3 to form.

4 THE WITNESS: Typical of any
5 industry, the pricing generally decreases
6 over time with more competition.

7 BY MR. BERHOLD:

8 Q. Let me check real quick to see if I need
9 to introduce one more exhibit.

10 MR. BERHOLD: Chris, can we introduce
11 SIS 167, please?

12 THE CONCIERGE: Sure. Please stand
13 by.

14 (Whereupon, Posdal Exhibit 3
15 was marked for
16 identification.)

17 THE CONCIERGE: SIS 167 has been
18 introduced as Posdal Exhibit 3 and is now
19 on the screen. And I can rotate this page
20 if need be.

21 MR. BERHOLD: Sure. Let's do that
22 and make it easier on everyone. And is it
23 possible to zoom?

24 BY MR. BERHOLD:

25 Q. Mr. Posdal, do you recognize Exhibit 3?

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1 A. I do.

2 Q. What is Exhibit 3?

3 A. Exhibit 3 is a list of the customers that
4 we actually did perform a service on the da Vinci
5 Intuitive EndoWrists for existing customers.

6 MR. BERHOLD: Mike, do you mind if we
7 take two minutes for me to review my
8 notes? I think that's all the questioning
9 I have for Mr. Posdal, but I want to make
10 sure.

11 MR. BAILEY: Yes. That's fine, Jeff.

12 MR. BERHOLD: All right. Thanks.
13 We'll take a two -- yeah.

14 THE VIDEOGRAPHER: The time is now
15 10:35 a.m. We're going off the record.

16 (Whereupon, a discussion ensued
17 off the record.)

18 (Whereupon, there was a brief
19 recess.)

20 THE VIDEOGRAPHER: The time is now
21 10:38 a.m. We're back on the record.
22 Please continue.

23 BY MR. BERHOLD:

24 Q. So sorry. I do want to ask a couple of
25 questions. I'm not sure if we covered it

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1 A. There's certainly speculation, but I can't
2 answer as to why Intuitive put limits on these.

3 Q. Mr. Posdal, I'm not asking about -- yeah,
4 I'm not -- I don't want you to speculate. I'm
5 asking for your understanding.

6 My question is, do you have any
7 understanding from your discussions with Mr. Parker
8 or Rebotix Repair as to why usage limits were put
9 on EndoWrist instruments?

10 A. The discussion that we've had between
11 Rebotix and us and Restore Robotics was that that
12 number appeared to be arbitrary and that evaluating
13 and increasing the number of uses on this was in
14 line with the way we serviced the rest of the
15 standard instrumentation for hospitals for the last
16 50 years.

17 Q. And when you heard that the number was
18 arbitrary, Mr. Posdal, did you do any investigation
19 or research to see if that claim had any support?

20 A. Personally, no. I think we relied on what
21 we had talked to Rebotix about at the time.

22 Q. Did you have any understanding of whether
23 patient safety had anything to do with having a
24 limit to the number of times EndoWrists could be
25 used?

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1 Q. And what -- roughly speaking, how much of
2 the revenue that S.I.S. brings in each year is
3 rooted in this surgical repair business that you
4 described?

5 A. Of all those categories?

6 Q. Yes.

7 A. Roughly 95 percent.

8 Q. And how much revenue was S.I.S. bringing
9 in in connection with any of the work it did on
10 EndoWrist instruments or da Vinci?

11 A. Can you ask that again, please?

12 Q. Sure.

13 How much revenue was S.I.S. bringing in in
14 connection with any of the work it did in
15 connection with EndoWrist instruments or da Vinci?

16 A. That, that would be on the sheet that you
17 had produced earlier. That's the entirety of the
18 EndoWrist repairs that we had done.

19 Q. So about 48 separate repairs were all --
20 that's what S.I.S. had done in connection with this
21 EndoWrist repair business.

22 A. That is correct.

23 Q. Right?

24 A. That is correct.

25 Q. And it was not much revenue that it had

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1 R E P O R T E R C E R T I F I C A T E
2 STATE OF GEORGIA)
3 COBB COUNTY)
4

5 I, Debra M. Druzisky, a Certified Court
6 Reporter in and for the State of Georgia, do hereby
7 certify:

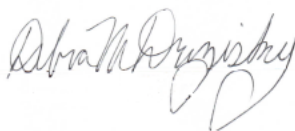
8 That prior to being examined, the witness
9 named in the foregoing deposition was by me duly
10 sworn to testify to the truth, the whole truth, and
11 nothing but the truth;

12 That said deposition was taken before me
13 at the time and place set forth and was taken down
14 by me in shorthand and thereafter reduced to
15 computerized transcription under my direction and
16 supervision. And I hereby certify the foregoing
17 deposition is a full, true and correct transcript
18 of my shorthand notes so taken.

19 Review of the transcript was requested.
20 If requested, any changes made by the deponent and
21 provided to the reporter during the period allowed
22 are appended hereto.

23 I further certify that I am not of kin or
24 counsel to the parties in the case, and I am not in
25 the regular employ of counsel for any of the said
parties, nor am I in any way financially interested
in the result of said case.

IN WITNESS WHEREOF, I have hereunto
subscribed my name this 11th day of May, 2021.



Debra M. Druzisky
Georgia CCR-B-1848